



General Assembly

Substitute Bill No. 6356

January Session, 2013



**AN ACT CONCERNING BENEFIT CORPORATIONS AND
ENCOURAGING SOCIAL ENTERPRISE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2013*) As used in this section
2 and sections 2 to 12, inclusive, of this act:

3 (1) "Benefit corporation" means a business corporation (A) that has
4 elected to become subject to the provisions of this section and sections
5 2 to 12, inclusive, of this act, and (B) whose status as a benefit
6 corporation has not been terminated pursuant to section 6 of this act.

7 (2) "Benefit director" means either (A) the director designated as the
8 benefit director of a benefit corporation pursuant to section 8 of this
9 act, or (B) a person with one or more of the powers, duties or rights of
10 a benefit director as provided in a benefit corporation shareholder
11 agreement that eliminates the board of directors or transfers to one or
12 more shareholders or other persons all or part of the authority to
13 exercise corporate powers or to manage the business and affairs of the
14 corporation.

15 (3) "Benefit enforcement proceeding" means any claim or action for
16 (A) the failure of a benefit corporation to pursue or create a general
17 public benefit or any specific public benefit set forth in its certificate of
18 incorporation, bylaws or otherwise adopted by its board of directors,

19 or (B) the violation of any obligation, duty or standard of conduct
20 under sections 2 to 12, inclusive, of this act.

21 (4) "Benefit officer" means the individual designated as the benefit
22 officer of a benefit corporation pursuant to section 10 of this act.

23 (5) "Business corporation" means a corporation whose internal
24 affairs are governed by chapter 601 of the general statutes.

25 (6) "Charitable organization" means any nonprofit organization
26 organized for charitable purposes to which has been issued a ruling by
27 the Internal Revenue Service classifying it as an exempt organization
28 under Section 501(c)(3) of the Internal Revenue Code of 1986, or any
29 subsequent corresponding internal revenue code of the United States,
30 as amended from time to time.

31 (7) "General public benefit" means a material positive impact on
32 society and the environment, taken as a whole and assessed against a
33 third-party standard, from the business and operations of a benefit
34 corporation.

35 (8) "Legacy preservation provision" means a provision providing
36 that a benefit corporation (A) shall, upon dissolution, distribute its
37 assets to one or more charitable organizations or benefit corporations
38 that have enacted such provision, and (B) may not otherwise terminate
39 its status as a benefit corporation.

40 (9) "Minimum status vote" means, in addition to any other required
41 approval or vote, a vote in which (A) the shareholders of every class or
42 series shall be entitled to vote on the corporate action regardless of a
43 limitation stated in the certificate of incorporation or bylaws on the
44 voting rights of any class or series, and (B) the corporate action is
45 approved by the affirmative vote of at least two-thirds of the voting
46 power of each voting group entitled to vote thereon.

47 (10) "Specific public benefit" means a benefit that serves one or more
48 public welfare, religious, charitable, scientific, literary or educational

49 purposes, or other purpose or benefit beyond the strict interest of the
50 shareholders of the benefit corporation, and includes: (A) Providing
51 low-income or underserved individuals or communities with
52 beneficial products or services, (B) promoting economic opportunity
53 for individuals or communities beyond the creation of jobs in the
54 normal course of business, (C) preserving or improving the
55 environment, (D) improving human health, (E) promoting the arts,
56 sciences or advancement of knowledge, (F) increasing the flow of
57 capital to entities with a public benefit purpose, and (G) conferring any
58 other particular benefit on society or the environment.

59 (11) "Subsidiary" means, in relation to an individual, an entity in
60 which the individual either (A) owns directly or indirectly equity
61 interests entitled to cast a majority of the votes entitled to be cast
62 generally in an election of directors or members of the governing body
63 of the entity, or (B) otherwise owns or controls voting or contractual
64 power to exercise effective governing control of the entity. The
65 percentage of ownership of equity interests or ownership or control of
66 power to exercise control shall be calculated as if all outstanding rights
67 to acquire equity interests in the entity had been exercised.

68 (12) "Third-party standard" means a recognized standard for
69 defining, reporting and assessing corporate social and environmental
70 performance that is (A) developed by an organization that is
71 independent of the benefit corporation, and (B) easily understood
72 because the following information concerning the standard is publicly
73 available: (i) The factors considered when measuring the performance
74 of a business, (ii) the relative weightings of those factors, and (iii) the
75 identity of the persons that develop and control changes to the
76 standard and the process by which those changes are made.

77 (13) "Unanimous vote" means, in addition to any other required
78 approval or vote, a vote in which (A) the shareholders of every class or
79 series shall be entitled to vote on the corporate action regardless of a
80 limitation stated in the certificate of incorporation or bylaws on the
81 voting rights of any class or series, and (B) the corporate action is

82 approved by the affirmative vote of the entire voting power of each
83 voting group entitled to vote thereon.

84 (14) "Voting group" means all shares of one or more classes or series
85 that under the certificate of incorporation, sections 33-600 to 33-998,
86 inclusive, of the general statutes or this section and sections 2 to 12,
87 inclusive, of this act are entitled to vote and be counted together
88 collectively on a matter at a meeting of shareholders. All shares
89 entitled by the certificate of incorporation or said sections to vote
90 generally on the matter are for that purpose a single voting group.

91 (15) "Voting power" means the current power to vote on a matter at
92 a meeting of shareholders.

93 Sec. 2. (NEW) (*Effective October 1, 2013*) (a) Sections 1 to 12, inclusive,
94 of this act shall be applicable to all benefit corporations.

95 (b) The existence of a provision of sections 1 to 12, inclusive, of this
96 act shall not of itself create an implication that a contrary or different
97 rule of law is applicable to a business corporation that is not a benefit
98 corporation. The provisions of sections 1 to 12, inclusive, of this act
99 shall not affect a statute or rule of law that is applicable to a business
100 corporation that is not a benefit corporation.

101 (c) Except as otherwise provided in sections 1 to 12, inclusive, of this
102 act, the provisions of chapter 601 of the general statutes shall be
103 generally applicable to all benefit corporations. The specific provisions
104 of sections 1 to 12, inclusive, of this act shall control over the general
105 provisions of chapter 601 of the general statutes.

106 (d) A provision of the certificate of incorporation or bylaws of a
107 benefit corporation may not limit, be inconsistent with, or supersede a
108 provision of sections 1 to 12, inclusive, of this act.

109 (e) Nothing in sections 1 to 12, inclusive, of this act shall (1) be
110 construed as creating or granting to any person any contractual right
111 to, or proprietary interest in, the income or assets of the benefit

112 corporation by virtue of the fact that he or she may directly or
113 indirectly benefit from the general or any specific public benefit of the
114 benefit corporation, (2) be construed as imposing or creating a
115 charitable use, interest or restriction on any property or assets of a
116 benefit corporation, or (3) deprive the Attorney General of jurisdiction
117 over a benefit corporation under any other applicable law.

118 Sec. 3. (NEW) (*Effective October 1, 2013*) (a) A benefit corporation
119 shall be formed in accordance with the provisions of chapter 601 of the
120 general statutes and its certificate of incorporation, as initially filed
121 with the office of the Secretary of the State or as amended, shall state
122 that such corporation is a benefit corporation.

123 (b) In addition to its purpose under chapter 601 of the general
124 statutes, a benefit corporation shall have a purpose of creating a
125 general public benefit. Such purpose shall be set forth in the
126 corporation's certificate of incorporation.

127 (c) The certificate of incorporation of a benefit corporation may
128 identify one or more specific public benefits that are the purpose of the
129 benefit corporation to create in addition to its purposes under chapter
130 601 of the general statutes or subsection (b) of this section. The
131 identification of a specific public benefit under this subsection shall not
132 limit the obligation of a benefit corporation to pursue a general public
133 benefit established pursuant to subsection (a) of this section or its
134 purpose under chapter 601 of the general statutes.

135 (d) The creation of a general public benefit and one or more specific
136 public benefits, if any, pursuant to this section is in the best interests of
137 the benefit corporation.

138 (e) A benefit corporation may amend its certificate of incorporation
139 to add, amend or delete the identification of a specific public benefit
140 that is the purpose of the benefit corporation to create. Any such
141 amendment shall be adopted in accordance with the procedures set
142 forth in section 33-797 of the general statutes and shall be approved by

143 a minimum status vote.

144 Sec. 4. (NEW) (*Effective October 1, 2013*) (a) A business corporation
145 that was not formed as a benefit corporation may become a benefit
146 corporation by amending its certificate of incorporation so that such
147 certificate contains, in addition to matters required by section 33-636 of
148 the general statutes, (1) a statement that the corporation is a benefit
149 corporation, and (2) a purpose of creating a general public benefit. Any
150 such amendment shall be adopted in accordance with the procedures
151 set forth in section 33-797 of the general statutes and shall be approved
152 by a minimum status vote.

153 (b) Any corporation that is not a benefit corporation that is a party
154 to a merger or consolidation in which the survivor or consolidated
155 corporation will be a benefit corporation shall approve the plan of
156 merger or consolidation by a minimum status vote in addition to any
157 other vote required by sections 33-814 to 33-821a, inclusive, of the
158 general statutes, the certificate of incorporation or the bylaws.

159 (c) Any corporation that is not a benefit corporation that is a party to
160 a merger or consolidation in which shares of stock of such corporation
161 will be converted into a right to receive shares of stock of a benefit
162 corporation shall approve the plan of merger or consolidation by a
163 minimum status vote in addition to any other vote required by
164 sections 33-840 to 33-845, inclusive, of the general statutes, the
165 certificate of incorporation or the bylaws.

166 Sec. 5. (NEW) (*Effective October 1, 2013*) (a) A benefit corporation
167 may, after not less than twenty-four months from the date it filed its
168 certificate of incorporation with the Secretary of the State, enact a
169 legacy preservation provision by amending its certificate of
170 incorporation so that such certificate contains a statement that the
171 corporation is subject to a legacy preservation provision. Any such
172 amendment shall be adopted in accordance with the procedures set
173 forth in section 33-797 of the general statutes and shall be approved by
174 (1) a unanimous vote, or (2) written consent of the shareholders of

175 every class or series regardless of a limitation stated in the certificate of
176 incorporation or bylaws on the voting rights of any class or series.

177 (b) Notwithstanding the provisions of sections 33-880 to 33-900,
178 inclusive, of the general statutes, the assets of a benefit corporation that
179 dissolves pursuant to chapter 601 of the general statutes and has
180 enacted a legacy preservation provision shall be applied and
181 distributed as follows: (1) All liabilities and other obligations of the
182 benefit corporation shall be paid, satisfied and discharged, or adequate
183 provision shall be made therefore, and (2) all remaining assets received
184 and held by the benefit corporation shall be transferred or conveyed to
185 one or more charitable organizations or benefit corporations that have
186 enacted a legacy preservation provision pursuant to this section.

187 Sec. 6. (NEW) (*Effective October 1, 2013*) (a) Except for a benefit
188 corporation that has enacted a legacy preservation provision pursuant
189 to section 5 of this act, a benefit corporation may terminate its status as
190 such and cease to be subject to the provisions of sections 1 to 12,
191 inclusive, of this act by amending its certificate of incorporation to
192 delete any provision stating that such corporation is a benefit
193 corporation. Any such amendment shall be adopted in accordance
194 with the procedures set forth in section 33-797 of the general statutes
195 and shall be approved by a minimum status vote.

196 (b) Except for a benefit corporation that has enacted a legacy
197 preservation provision pursuant to section 5 of this act, a benefit
198 corporation may be a party to a merger or consolidation in which the
199 survivor of the merger will not be a benefit corporation, provided the
200 plan of merger or consolidation shall not be effective unless such plan
201 is adopted by a minimum status vote in addition to any other vote
202 required by sections 33-814 to 33-821a, inclusive, of the general
203 statutes, the certificate of incorporation or the bylaws.

204 (c) Except for a benefit corporation that has enacted a legacy
205 preservation provision pursuant to section 5 of this act, a benefit
206 corporation may be a party to a merger or consolidation in which

207 shares of stock of such benefit corporation will be converted into a
208 right to receive shares of stock of a corporation that is not a benefit
209 corporation, provided such plan of merger or consolidation shall not
210 be effective unless such plan is adopted by a minimum status vote in
211 addition to any other vote required by sections 33-840 to 33-845,
212 inclusive, of the general statutes, the certificate of incorporation or the
213 bylaws.

214 (d) (1) Except for a benefit corporation that has enacted a legacy
215 preservation provision in accordance with section 5 of this act, a sale,
216 lease, exchange or other disposition of all, or substantially all, of the
217 assets of a benefit corporation, unless such disposition is in the usual
218 and regular course of business of the benefit corporation, shall not be
219 effective unless such disposition is approved by a minimum status
220 vote in addition to any other vote required by section 33-831 of the
221 general statutes, the certificate of incorporation or the bylaws; and (2) a
222 benefit corporation that has enacted a legacy preservation provision
223 shall not enter into a sale, lease, exchange or other disposition of all, or
224 substantially all, of the assets of a benefit corporation, unless such
225 disposition is in the usual and regular course of business of the benefit
226 corporation, the parties to the disposition are charitable organizations
227 or benefit corporations that have enacted legacy preservation
228 provisions pursuant to section 5 of this act, and such disposition is
229 approved by a minimum status vote in addition to any other vote
230 required by section 33-831 of the general statutes, the certificate of
231 incorporation or the bylaws.

232 Sec. 7. (NEW) (*Effective October 1, 2013*) (a) The board of directors,
233 committees of the board and individual directors of a benefit
234 corporation when discharging the duties of their respective positions
235 and considering the best interests of the benefit corporation:

236 (1) Shall consider the effects of any corporate action upon:

237 (A) The shareholders of the benefit corporation,

238 (B) The employees and workforce of the benefit corporation, and its
239 subsidiaries and suppliers,

240 (C) The interests of customers as beneficiaries of the general public
241 benefit purpose or any specific public benefit purpose of the benefit
242 corporation,

243 (D) Community and societal factors, including those of each
244 community in which offices or facilities of the benefit corporation, or
245 its subsidiaries or suppliers are located,

246 (E) The local and global environment,

247 (F) The short-term and long-term interests of the benefit
248 corporation, including benefits that may accrue to the benefit
249 corporation from its long-term plans and the possibility that these
250 interests and the general public benefit purpose and any specific public
251 benefit purposes of the benefit corporation may be best served by the
252 continued independence of the benefit corporation, and

253 (G) The ability of the benefit corporation to accomplish its general
254 public benefit and any specific public benefit;

255 (2) May consider (A) the resources, intent, and past, stated and
256 potential conduct of any person seeking to acquire control of the
257 benefit corporation, and (B) other pertinent factors or the interests of
258 any other person that they deem appropriate; and

259 (3) Need not give priority to the interests of a particular person
260 referred to in subdivision (1) or (2) of this subsection over the interests
261 of any other person unless the benefit corporation has stated its
262 intention to give priority to interests related to a specific public benefit
263 purpose identified in its certification of incorporation.

264 (b) The consideration of interests and factors in the manner required
265 by subsection (a) of this section (1) shall not constitute a violation of
266 section 33-756 of the general statutes, and (2) is in addition to the

267 power of directors to consider the interests and factors referred to in
268 subsection (d) of section 33-756 of the general statutes.

269 (c) In any proceeding brought by or in the right of a benefit
270 corporation or brought by or on behalf of the shareholders of a benefit
271 corporation, a director is not personally liable for monetary damages
272 for (1) any action taken as a director if the director performed the
273 duties of office in compliance with section 33-756 of the general
274 statutes and this section, or (2) the failure of the benefit corporation to
275 create a general public benefit or any specific public benefit specified
276 in its certificate of incorporation, bylaws or otherwise adopted by the
277 board of directors.

278 (d) A director shall not have a duty to a person that is a beneficiary
279 of the general public benefit purpose or any specific public benefit
280 purpose of a benefit corporation arising from the status of the person
281 as a beneficiary.

282 Sec. 8. (NEW) (*Effective October 1, 2013*) (a) The board of directors of
283 a benefit corporation that is a publicly traded corporation shall, and
284 the board of any other benefit corporation may, include a director who
285 shall (1) be designated the benefit director, and (2) have, in addition to
286 the powers, duties, rights and immunities of the other directors of the
287 benefit corporation, any additional powers, duties, rights and
288 immunities provided (A) by the bylaws, or (B) absent controlling
289 provisions in the bylaws, by resolutions or orders of the board of
290 directors.

291 (b) The benefit director shall be elected, and may be removed, in the
292 manner provided under chapter 601 of the general statutes. The benefit
293 director shall not have a material relationship with the benefit
294 corporation or a subsidiary of the benefit corporation. A material
295 relationship between a person and a benefit corporation or any of its
296 subsidiaries shall be conclusively presumed to exist if any of the
297 following apply: (1) A person is, or has been within the last three years,
298 an employee of the benefit corporation or a subsidiary of the benefit

299 corporation; (2) an immediate family member of a person is, or has
300 been within the last three years, an executive officer of the benefit
301 corporation or a subsidiary of the benefit corporation; or (3) there is
302 beneficial or record ownership of five per cent or more of the
303 outstanding shares of the benefit corporation by (A) the person, or (B)
304 an entity (i) of which the person is a director, an officer or a manager,
305 or (ii) in which the person owns beneficially or of record five per cent
306 or more of the outstanding equity interests, which percentage shall be
307 calculated as if all outstanding rights to acquire equity interests in the
308 entity had been exercised. Currently or previously serving as a benefit
309 director or benefit officer for the benefit corporation or a subsidiary of
310 the benefit corporation shall not constitute a material relationship. The
311 benefit director may serve as the benefit officer at the same time as
312 serving as the benefit director. The certificate of incorporation, bylaws
313 or a shareholder agreement of a benefit corporation may prescribe
314 additional qualifications of the benefit director not inconsistent with
315 this subsection.

316 (c) The benefit director shall prepare, and the benefit corporation
317 shall include in the annual benefit report required by section 12 of this
318 act, the opinion of the benefit director regarding (1) whether the
319 benefit corporation acted in accordance with its general public benefit
320 purpose and any specific public benefit purpose in all material respects
321 during the period covered by the report, (2) whether the directors and
322 officers complied with subsection (a) of section 7 of this act and
323 subsection (a) of section 9 of this act, respectively, and (3) if the benefit
324 corporation or its directors or officers failed to comply with subsection
325 (a) of section 7 of this act or subsection (a) of section 9 of this act, a
326 description of the ways in which the benefit corporation or its directors
327 or officers failed to comply. If a benefit corporation does not elect a
328 benefit director, the board of directors shall prepare such opinion
329 pursuant to this subsection. If a shareholder agreement eliminates the
330 board of directors or transfers to one or more shareholders or other
331 persons all or part of the authority to exercise corporate powers or to
332 manage the business and affair of the corporation, such agreement

333 shall designate a person who shall prepare such opinion.

334 (d) The act or omission of an individual in the capacity of a benefit
335 director shall constitute for all purposes an act or omission of that
336 individual in the capacity of a director of the benefit corporation.

337 (e) Regardless of whether the certificate of incorporation of a benefit
338 corporation includes a provision limiting the personal liability of
339 directors as authorized by chapter 601 of the general statutes, a benefit
340 director shall not be personally liable for any act or omission in the
341 capacity of a benefit director unless the act or omission constitutes self-
342 dealing, wilful misconduct or a knowing violation of law.

343 Sec. 9. (NEW) (*Effective October 1, 2013*) (a) Each officer of a benefit
344 corporation shall consider the interests and factors described in
345 subsection (a) of section 7 of this act in the manner provided in that
346 subsection if (1) the officer has discretion to act with respect to a
347 matter, and (2) it reasonably appears to the officer that the matter may
348 have a material effect on the creation by the benefit corporation of a
349 general public benefit or any specific public benefit identified in the
350 certificate of incorporation of the benefit corporation.

351 (b) The consideration of interests and factors in the manner
352 described in subsection (a) shall not constitute a violation of section 33-
353 765 of the general statutes.

354 (c) An officer shall not be personally liable for (1) an act or omission
355 as an officer in the course of performing the duties of an officer under
356 subsection (a) of this section if the officer performed the duties of the
357 position in compliance with section 33-765 of the general statutes and
358 this section, or (2) the failure of the benefit corporation to pursue or
359 create a general public benefit or any specific public benefit.

360 (d) An officer shall not have a duty to a person that is a beneficiary
361 of the general public benefit purpose or any specific public benefit
362 purpose of a benefit corporation arising from the status of the person
363 as a beneficiary.

364 Sec. 10. (NEW) (*Effective October 1, 2013*) A benefit corporation may
365 designate a benefit officer who shall have (1) the powers and duties
366 relating to the purpose of the corporation to create a general public
367 benefit or any specific public benefit provided (A) by the bylaws, or (B)
368 absent controlling provisions in the bylaws, by resolutions or orders of
369 the board of directors; and (2) the duty to prepare the benefit report
370 required by subsection (b) of section 12 of this act.

371 Sec. 11. (NEW) (*Effective October 1, 2013*) (a) Except in a benefit
372 enforcement proceeding, no person may bring an action or assert a
373 claim against a benefit corporation or its directors or officers with
374 respect to (1) the failure to pursue or create a general public benefit or
375 any specific public benefit set forth in its certificate of incorporation, or
376 (2) the violation of an obligation, duty or standard of conduct under
377 sections 1 to 12, inclusive, of this act.

378 (b) A benefit corporation shall not be liable for monetary damages
379 under sections 1 to 12, inclusive, of this act for any failure of the benefit
380 corporation to pursue or create a general public benefit or any specific
381 public benefit.

382 (c) A benefit enforcement proceeding may be commenced or
383 maintained (1) directly by the benefit corporation, or (2) in accordance
384 with the provisions of chapter 601 of the general statutes by (A) a
385 person or group of persons that own beneficially or of record at least
386 five per cent of the total number of shares of all classes and series
387 outstanding on the date the benefit enforcement proceeding is
388 commenced, (B) a person or group of persons that own beneficially or
389 of record ten per cent or more of the outstanding equity interests in an
390 entity of which the benefit corporation is a majority-owned subsidiary,
391 or (C) other persons as specified in the certificate of incorporation of
392 bylaws of the benefit corporation.

393 (d) For purposes of this section, a person is the beneficial owner of
394 shares or equity interests if the shares or equity interests are held in a
395 voting trust or by a nominee on behalf of the beneficial owner.

396 Sec. 12. (NEW) (*Effective October 1, 2013*) (a) A benefit corporation
397 shall produce an annual benefit report.

398 (b) In preparing the annual benefit report, a benefit corporation
399 shall select a third-party standard by which to assess its pursuit of a
400 general public benefit and any specific public benefit. Selecting or
401 changing a third-party standard shall require approval by (1) the
402 greater of (A) a majority of all the directors in office when the action is
403 taken, or (B) the number of directors required by the certificate of
404 incorporation or bylaws of the benefit corporation to take action under
405 this section; or (2) the vote or written consent of the shareholders
406 required by the certificate of incorporation or bylaws of the benefit
407 corporation to take action under this section.

408 (c) The annual benefit report shall include:

409 (1) A narrative description of (A) the ways in which the benefit
410 corporation pursued a general public benefit during the year and the
411 extent to which a general public benefit was created; (B) (i) the ways in
412 which the benefit corporation pursued any specific public benefit that
413 the certificate of incorporation states it is the purpose of the benefit
414 corporation to create, and (ii) the extent to which that specific public
415 benefit was created; (C) any circumstances that have hindered the
416 creation by the benefit corporation of a general public benefit or any
417 specific public benefit; and (D) the process and rationale for selecting
418 or changing the third-party standard used to prepare the benefit
419 report;

420 (2) An assessment of the overall social and environmental
421 performance of the benefit corporation against a third-party standard
422 (A) applied consistently with any application of that standard in prior
423 benefit reports, or (B) accompanied by an explanation of the reasons
424 for any inconsistent application or the change to that standard from
425 the one used in the report immediately prior;

426 (3) The name of the benefit director and the benefit officer, if any,

427 and the address to which correspondence to each of them may be
428 directed;

429 (4) The compensation paid by the benefit corporation during the
430 fiscal year to each director in his or her capacity as a director;

431 (5) The opinion of (A) the benefit director, (B) the board of directors,
432 or (C) the person designated in a shareholder agreement pursuant to
433 subsection (c) of section 8 of this act;

434 (6) A statement of any connection between the organization that
435 established the third-party standard, or its directors, officers or any
436 holder of five per cent or more of the voting power or capital interests
437 in the organization, and the benefit corporation or its directors, officers
438 or any holder of five per cent or more of the outstanding shares of the
439 benefit corporation, including any financial or governance relationship
440 that might materially affect the credibility of the use of the third-party
441 standard; and

442 (7) If a shareholder agreement eliminates the board of directors or
443 transfers to one or more shareholders or other persons all or part of the
444 authority to exercise corporate powers or to manage the business and
445 affair of the corporation, a description of (A) the persons that exercise
446 the powers, duties and rights and who have the immunities of the
447 board of directors, and (B) the name of the person, if any, who is
448 vested with the powers, duties, rights and immunities of a benefit
449 director.

450 (d) If, during the year covered by a benefit report, a benefit director
451 or benefit officer resigned from or refused to stand for reelection to the
452 position of benefit director or benefit officer, or was removed from the
453 position of benefit director or benefit officer, and the benefit director or
454 benefit officer furnished the benefit corporation with a written
455 statement or correspondence concerning the circumstances
456 surrounding the resignation, refusal, or removal, the benefit report
457 shall include that correspondence as an exhibit.

458 (e) The annual benefit report need not be audited or certified by the
459 organization that designed the third-party standard used in the annual
460 benefit report.

461 (f) A benefit corporation shall send its annual benefit report to each
462 shareholder (1) not later than one hundred twenty days following the
463 end of the fiscal year of the benefit corporation, or (2) at the same time
464 that the benefit corporation delivers any other annual report to its
465 shareholders, whichever is earlier.

466 (g) A benefit corporation shall post and maintain each annual
467 benefit report on the public portion of its Internet web site, if any, but
468 the compensation paid to directors and any financial, confidential or
469 proprietary information included in any benefit report may be omitted
470 from the benefit report as posted.

471 (h) If a benefit corporation does not have an Internet web site, the
472 benefit corporation shall provide a copy of its most recent benefit
473 report, without charge, to any person who requests a copy, provided
474 the compensation paid to directors and any financial, confidential or
475 proprietary information included in any benefit report may be omitted
476 from such copy.

477 Sec. 13. Section 33-856 of the general statutes is repealed and the
478 following is substituted in lieu thereof (*Effective October 1, 2013*):

479 (a) A shareholder is entitled to appraisal rights, and to obtain
480 payment of the fair value of that shareholder's shares, in the event of
481 any of the following corporate actions:

482 (1) Consummation of a merger to which the corporation is a party
483 (A) if shareholder approval is required for the merger by section 33-
484 817 and the shareholder is entitled to vote on the merger, except that
485 appraisal rights shall not be available to any shareholder of the
486 corporation with respect to shares of any class or series that remain
487 outstanding after consummation of the merger, or (B) if the
488 corporation is a subsidiary and the merger is governed by section 33-

489 818;

490 (2) Consummation of a share exchange to which the corporation is a
491 party as the corporation whose shares will be acquired, if the
492 shareholder is entitled to vote on the exchange, except that appraisal
493 rights shall not be available to any shareholder of the corporation with
494 respect to any class or series of shares of the corporation that is not
495 exchanged;

496 (3) Consummation of a disposition of assets pursuant to section 33-
497 831 if the shareholder is entitled to vote on the disposition, except that
498 appraisal rights shall not be available to any shareholder of the
499 corporation with respect to shares of any class or series if (A) under the
500 terms of the corporate action approved by the shareholders there is to
501 be distributed to shareholders in cash its net assets, in excess of a
502 reasonable amount reserved to meet claims of the type described in
503 sections 33-886 and 33-887, (i) within one year after the shareholders'
504 approval of the action, and (ii) in accordance with their respective
505 interests determined at the time of such distribution, and (B) the
506 disposition of assets is not an interested transaction;

507 (4) An amendment of the certificate of incorporation with respect to
508 a class or series of shares that reduces the number of shares of a class
509 or series owned by the shareholder to a fraction of a share if the
510 corporation has the obligation or right to repurchase the fractional
511 share so created; [or]

512 (5) If the corporation is not a benefit corporation as defined in
513 section 1 of this act, (A) an amendment of the certificate of
514 incorporation to state that the corporation is a benefit corporation, (B)
515 consummation of a merger to which the corporation is a party in
516 which the surviving entity will be a benefit corporation, or (C)
517 consummation of a share exchange to which the corporation is a party
518 and the shares of the corporation will be exchanged for shares of a
519 benefit corporation; or

520 ~~[(5)]~~ (6) Any other merger, share exchange, disposition of assets or
521 amendment to the certificate of incorporation to the extent provided by
522 the certificate of incorporation, the bylaws or a resolution of the board
523 of directors.

524 (b) Notwithstanding subsection (a) of this section, the availability of
525 appraisal rights under subdivisions (1), (2), (3), ~~[and]~~ (4) and (5) of
526 subsection (a) of this section shall be limited in accordance with the
527 following provisions:

528 (1) Appraisal rights shall not be available for the holders of shares of
529 any class or series of shares which is:

530 (A) A covered security under Section 18(b)(1)(A) or (B) of the
531 Securities Act of 1933, as amended;

532 (B) Traded in an organized market and has at least two thousand
533 shareholders and a market value of at least twenty million dollars,
534 exclusive of the value of such shares held by the corporation's
535 subsidiaries, senior executives, directors and beneficial shareholders
536 owning more than ten per cent of such shares; or

537 (C) Issued by an open-end management investment company
538 registered with the Securities and Exchange Commission under the
539 Investment Company Act of 1940 and may be redeemed at the option
540 of the holder at net asset value.

541 (2) The applicability of subdivision (1) of this subsection shall be
542 determined as of: (A) The record date fixed to determine the
543 shareholders entitled to receive notice of the meeting of shareholders
544 to act upon the corporate action requiring appraisal rights; or (B) the
545 day before the effective date of such corporate action if there is no
546 meeting of shareholders.

547 (3) Subdivision (1) of this subsection shall not be applicable and
548 appraisal rights shall be available pursuant to subsection (a) of this
549 section for the holders of any class or series of shares (A) who are

550 required by the terms of the corporate action requiring appraisal rights
551 to accept for such shares anything other than cash or shares of any
552 class or any series of shares of any corporation, or any other
553 proprietary interest of any other entity, that satisfies the standards set
554 forth in subdivision (1) of this subsection at the time the corporate
555 action becomes effective, or (B) in the case of the consummation of a
556 disposition of assets pursuant to section 33-831, unless such cash,
557 shares or proprietary interests are, under the terms of the corporate
558 action approved by the shareholders, to be distributed to the
559 shareholders, as part of a distribution to shareholders of the net assets
560 of the corporation in excess of a reasonable amount to meet claims of
561 the type described in sections 33-886 and 33-887, (i) not later than one
562 year after the shareholders' approval of the action, and (ii) in
563 accordance with their respective interests determined at the time of the
564 distribution.

565 (4) Subdivision (1) of this subsection shall not be applicable and
566 appraisal rights shall be available pursuant to subsection (a) of this
567 section for the holders of any class or series of shares where the
568 corporate action is an interested transaction.

569 (c) Notwithstanding any other provision of this section, the
570 certificate of incorporation as originally filed or any amendment
571 thereto may limit or eliminate appraisal rights for any class or series of
572 preferred shares, but any such limitation or elimination contained in
573 an amendment to the certificate of incorporation that limits or
574 eliminates appraisal rights for any of such shares that are outstanding
575 immediately prior to the effective date of such amendment or that the
576 corporation is or may be required to issue or sell thereafter pursuant to
577 any conversion, exchange or other right existing immediately before
578 the effective date of such amendment shall not apply to any corporate
579 action that becomes effective within one year of that date if such action
580 would otherwise afford appraisal rights.

581 (d) Where the right to be paid the value of shares is made available
582 to a shareholder by this section, such remedy shall be the exclusive

583 remedy as holder of such shares against the corporate actions
584 described in this section, whether or not the shareholder proceeds as
585 provided in sections 33-855 to 33-872, inclusive.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	New section
Sec. 2	<i>October 1, 2013</i>	New section
Sec. 3	<i>October 1, 2013</i>	New section
Sec. 4	<i>October 1, 2013</i>	New section
Sec. 5	<i>October 1, 2013</i>	New section
Sec. 6	<i>October 1, 2013</i>	New section
Sec. 7	<i>October 1, 2013</i>	New section
Sec. 8	<i>October 1, 2013</i>	New section
Sec. 9	<i>October 1, 2013</i>	New section
Sec. 10	<i>October 1, 2013</i>	New section
Sec. 11	<i>October 1, 2013</i>	New section
Sec. 12	<i>October 1, 2013</i>	New section
Sec. 13	<i>October 1, 2013</i>	33-856

CE *Joint Favorable Subst. C/R*

JUD

JUD *Joint Favorable Subst.-LCO*

APP *Joint Favorable*